

MAY 28 2002

PATENT & TRADEMARK OFFICE

FILE NO. GK-OEH-119
500814.2002

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COPY OF PAPERS
ORIGINALLY FILEDUNITED STATES OF AMERICA
COMBINED DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

STABLE NEAR-INFRARED (NIR) MARKER DYES BASED ON
BENZOPYRILIUM-POLYMETHINES

The specification of which

- ☐ is attached hereto.
☐ was filed on _____ as United States patent application Serial Number _____
☒ was filed on May 22, 2001 as PCT international patent application No. PCT/DE01/01946
 and was amended on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. § 119
Germany	100 25 820.4	23 May 2000	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Germany	200 22 277.5	23 May 2000	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

I hereby appoint REED SMITH LLP and the members of the firm: Lloyd McAulay, Reg. No. 20,423; Jules E. Goldberg, Reg. No. 24,408; Gerald H. Kiel, Reg. No. 25,116; Eugene LeDonne, Reg. No. 35,930; Stephen Chin, Reg. No. 39,938; Arthur Dresner, Reg. No. 24,403; Daniel Lent, Reg. No. 44,867; Samir R. Patel, Reg. No. 44,998; and Harry K. Ahn, Reg. No. 40,243, as attorneys with full power of substitution and revocation to prosecute all business in the Patent & Trademark Office connected therewith and to receive all correspondence.

SEND CORRESPONDENCE TO: Gerald H. Kiel, Esq.
 REED SMITH, LLP
 375 Park Avenue
 New York, New York 10152-1799, U.S.A.

DIRECT TELEPHONE CALLS TO: (212) 521-5400

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR Peter CZERNEY		INVENTOR'S SIGNATURE <i>Peter Czerny</i>	DATE 15.01.2002
RESIDENCE D-99425 Weimar, Germany		COUNTRY OF CITIZENSHIP Germany	
POST OFFICE ADDRESS Bodelschwinghstrasse 137, D-99425 Weimar, Germany			
FULL NAME OF SECOND INVENTOR (IF ANY) Wilhelm FRANK		INVENTOR'S SIGNATURE <i>Wilhelm Frank</i>	DATE 15.01.2002
RESIDENCE D-07743 Jena, Germany		COUNTRY OF CITIZENSHIP Germany	
POST OFFICE ADDRESS Grietgasse 6, D-07743 Jena, Germany			

☒

COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION (continued)		File No. GK-OEH-119/ 500814.20020	
FULL NAME OF THIRD INVENTOR (IF ANY) Frank LEHMANN		INVENTOR'S SIGNATURE <i>Frank Lehmann</i>	DATE 15.01.2002
RESIDENCE D-07749 Jena, Germany		COUNTRY OF CITIZENSHIP Germany	
POST OFFICE ADDRESS Camsdorfer Strasse 22, D-07749 Jena, Germany			
FULL NAME OF FOURTH JOINT INVENTOR (IF ANY) Bernd SCHWEDER		INVENTOR'S SIGNATURE <i>Bernd Schweder</i>	DATE 15.01.2002
RESIDENCE D-07743 Jena, Germany		COUNTRY OF CITIZENSHIP Germany	
POST OFFICE ADDRESS Leipziger Strasse 67, D-07743 Jena, Germany			
FULL NAME OF FIFTH INVENTOR (IF ANY) Matthias WENZEL		INVENTOR'S SIGNATURE <i>Matthias Wenzel</i>	DATE 15.01.2002
RESIDENCE D-07749 Jena, Germany		COUNTRY OF CITIZENSHIP Germany	
POST OFFICE ADDRESS Braendstroemstrasse 4, D-07749 Jena, Germany			
FULL NAME OF SIXTH JOINT INVENTOR (IF ANY)		INVENTOR'S SIGNATURE	DATE
RESIDENCE		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SEVENTH JOINT INVENTOR (IF ANY)		INVENTOR'S SIGNATURE	DATE
RESIDENCE		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF EIGHTH JOINT INVENTOR (IF ANY)		INVENTOR'S SIGNATURE	DATE
RESIDENCE		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF NINTH JOINT INVENTOR (IF ANY)		INVENTOR'S SIGNATURE	DATE
RESIDENCE		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			

Customer No.	026418	
Attorney's Docket No.:	GK-OEH-119 / 500814.20020	
U.S. Application No.:		
International Application No.:	PCT/DE01/01946	
International Filing Date:	MAY 22, 2001	22 MAY 2001
Priority Date Claimed:	MAY 23, 2000	23 MAY 2000
Title of Invention:	STABLE NEAR-INFRARED (NIR) MARKER DYES BASED ON BENZOPYRILIUM-POLYMETHINES	
Applicant(s) for (DO/EO/US):	Peter CZERNEY, Wilhelm FRANK, Frank LEHMANN, Bernd SCHWEDER and Matthias WENZEL	

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

- [X] 1. This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
- [] 2. This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
- [] 3. This express request to begin national examination procedures [35 U.S.C. 371 (f)] at any time rather than delay examination until the expiration of the applicable time limit set forth in 35 U.S.C. 371(b) and PCT Articles 22 and
- [] 4. A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
- [X] 5. A copy of **Publication No. WO 01/90253 29NOV01** ~~the International Application as filed~~ [35 U.S.C. 371(c)(2)]
- a) ☐ is transmitted herewith (required only if not transmitted by the International Bureau)
- b) ☐ has been transmitted by the international Bureau
- c) ☐ is not required, as the application was filed in the United States Receiving Office (RO/US)
- [X] 6. A translation of **Publication No. WO 01/90253 29NOV01** ~~the International Application~~ into English [35 U.S.C. 371(c)(2)]
- [] 7. Amendments to the claims of the International Application under PCT Article 19 [35 U.S.C. 371(c)(3)]
- a) ☐ are transmitted herewith (required only if not transmitted by the International Bureau)
- b) ☐ have been transmitted by the International Bureau
- c) ☐ have not been made; however, the time limit for making such amendments has **NOT** expired.
- d) ☐ have not been made and will not be made
- [] 8. A translation of the amendments to the claims under PCT Article 19 [35 U.S.C. 371(c)(3)]
- [X] 9. An **EXECUTED** Oath or declaration of the inventor(s) [35 U.S.C. 371(c)(4)]
- [] 10. A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 [35 U.S.C. 371(c)(5)]

Items 11. to 16. Below concern other document(s) or information included:

- [X] 11. An Information Disclosure Statement under 37 C.F.R. 1.97 and 1.98
- [X] 12. An Assignment document for recording. A separate cover sheet (PTO-1619A) in compliance with 37 CFR 3.28 and 3.31 is included.
- [X] 13. ☒ A **FIRST** preliminary amendment
☐ A **SECOND** or **SUBSEQUENT** preliminary amendment
- [X] 14. A **substitute specification and abstract** (attached to the preliminary amendment)
- [] 15. A change of power of attorney and/or address letter
- [X] 16. (other items or information) **PCT/RO/101, PCT/IB/308 29NOV01, WO 01/90253 29NOV01, Search Report: (PCT/ISA/210) 05NOV01, PTO-1449 w/3 references and 3 English language Abstracts.**

EXPRESS MAIL No.: **EL 915 668 192 US**

Deposited: **January 21, 2002**

I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 CFR 1.10 on the date indicated above and is addressed to: BOX PCT, Commissioner for Patents, Washington, DC 20231.


/Ruth Montalvo Date: **January 21, 2002**

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☒ 17. The following fees are submitted:

BASIC NATIONAL FEE [37 CFR 1.492(a)(1)-(5)]

- ☒ Search Report has been prepared by the EPO or JPO..... \$ 890.00
- ☐ International preliminary examination fee paid to USPTO [37 CFR 1.482]..... \$ 710.00
- ☐ No International preliminary examination fee paid to USPTO [37 CFR 1.482] but International search fee paid to USPTO [37 CFR 1.445(a)(2)]..... \$ 740.00
- ☐ Neither International preliminary examination fee [37 CFR 1.482] nor International search fee [37 CFR 1.445(a)(2)] paid to USPTO..... \$ 1,040.00
- ☐ International preliminary examination fee paid to USPTO [37 CFR 1.482] and all claims satisfied provisions of PCT Article 33(1)-(4)..... \$ 100.00

ENTER APPROPRIATE BASIC FEE AMOUNT:

\$890.00

Claims	Number Filed		Number Extra	Rate
Total Claims Prel. Amdt)	20	-20		x \$ 18. =
Indep. Claims	1	-03		x \$ 80. =
<input type="checkbox"/> Multiple Dependent Claim(s) (if applicable)				+ \$ 270. =

TOTAL OF ABOVE CALCULATIONS: \$890.00

Surcharge of \$130.00 for furnishing the oath or declaration later than ☐ 20 ☐ 30 months from the earliest claimed priority date [37 CFR 1.492(e)]

TOTAL OF ABOVE CALCULATIONS: \$890.00

Applicant claims Small Entity Status [See 37 CFR 1.27] Reduction by 1/2 for filing by small entity

SUBTOTAL: \$890.00

Processing fee of \$130.00 for furnishing the English Translation later than ☐ 20 ☐ 30 months from the earliest claimed priority date [37 CFR 1.492(f)]

TOTAL NATIONAL FEE: \$890.00

Fee for recording the enclosed assignment [37 CFR 1.21(h)] The assignment must be accompanied by an appropriate cover sheet (PTO-1595) [37 CFR 3.28, 3.31]. \$ 40.00 per property +

\$ 40.00

TOTAL FEE(S): \$930.00

AMOUNTS TO BE
REFUNDED OR CHARGED

REFUNDED
CHARGED \$
\$

(Please note the filing fee is based on the claims in the Preliminary Amendment)

☒ Check in the amount of \$ 930.00 to cover the above fees is enclosed. (The Commissioner is hereby authorized to charge any additional fees required with this submission or to credit any overpayment to Deposit Account No: 50-1529.)

NOTE: Where an appropriate time limit under 36 CFR 1.494 or 1.495 has not been met, a petition to revive [37 CFR 1.137(a) or (b)] must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Gerald h. Kiel, Esq.
Reed Smith LLP
375 Park Avenue
New York, NY 10152
(Customer No. 026418)

Gerald H. Kiel
Name (Tel. (212) 521-5400)

Signature

25,116
Reg. No.

January 21, 2002
Date